

In re: JOSEPH SPENCER.
HPA Docket No. 00-0009.
Decision and Order filed June 29, 2000.

Colleen A. Carroll, for Complainant.
Respondent, Pro se.

Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

This proceeding was instituted under the Horse Protection Act, as amended (15 U.S.C. § 1821 *et seq.*)(the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent violated the Act.

The Hearing Clerk served on the respondent, by mail, copies of the complaint and the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151). The respondent was informed in the accompanying letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation. The respondent has failed to file an answer within the time prescribed in the Rules of Practice, and the material facts alleged in the complaint, which are admitted by said respondent's failure to file an answer, are adopted and set forth herein as Findings of Fact. This decision and order is issued pursuant to section 1.139 of the Rules of Practice.

Findings of Fact

Respondent Joseph Spencer is an individual whose mailing address is Post Office Box 84, Pine Ridge, Kentucky 41360, and at all times mentioned herein was the owner of the horse known as "Push Light." On February 5, 2000, respondent Joseph Spencer offered "Push Light," for sale at the 2000 Kentucky After Christmas Sale in Lexington, Kentucky (the "Tattersalls Sale"), as entry number 855.

Conclusions of Law

On February 5, 2000, respondent Joseph Spencer offered "Push Light," for sale at the Tattersalls Sale, as entry number 855, while the horse was sore, in violation of section 5(2)(C) of the Act (15 U.S.C. § 1824(2)(C)).

Order

Respondent Joseph Spencer is assessed a civil penalty of \$2,000, and is disqualified for one year from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, family member, corporation, partnership, or other device, and from judging, managing, or otherwise participating in any horse

show, horse exhibition, or horse sale or auction.¹

The provisions of this order shall become effective on the first day after this decision becomes final. This decision becomes final without further proceedings 35 days after service as provided in sections 1.142 and 1.145 of the Rules of Practice. Copies of this decision shall be served upon the parties.

[This Decision and Order became final August 8, 2000.-Editor]

¹“Participating” means engaging in any activity beyond that of a spectator, and includes, without limitation, transporting or arranging for the transportation of horses to or from equine events, personally giving instructions to exhibitors, being present in any area where spectators are not allowed, and financing the participation of others in equine events.